

1 **Rule 7A. Motion to enforce order and for sanctions.**

2 *Effective: 5/1/2021*

3 **(a) Motion.** To enforce a court order or to obtain a sanctions order for violation of an
4 order, including in supplemental proceedings under Rule 64, a party must file an ex parte
5 motion to enforce order and for sanctions (if requested), pursuant to this rule and [Rule](#)
6 [7](#). The motion must be filed in the same case in which that order was entered. The
7 timeframes set forth in this rule, rather than those set forth in [Rule 7](#), govern motions to
8 enforce orders and for sanctions.

9 **(b) Affidavit.** The motion must state the title and date of entry of the order that the
10 moving party seeks to enforce. The motion must be verified, or must be accompanied by
11 at least one supporting affidavit or declaration that is based on personal knowledge and
12 shows that the affiant or declarant is competent to testify on the matters set forth. The
13 verified motion, affidavit, or declaration must set forth facts that would be admissible in
14 evidence and that would support a finding that the party has violated the order.

15 **(c) Proposed order.** The motion must be accompanied by a request to submit for decision
16 and a proposed order to attend hearing, which must:

17 (1) state the title and date of entry of the order that the motion seeks to enforce;

18 (2) state the relief sought in the motion;

19 (3) state whether the motion is requesting that the other party be held in contempt
20 and, if so, state that the penalties for contempt may include, but are not limited to, a
21 fine of up to \$1000 and confinement in jail for up to 30 days;

22 (4) order the other party to appear personally or through counsel at a specific place
23 (the court's address) and date and time (left blank for the court clerk to fill in) to
24 explain whether the nonmoving party has violated the order; and

25 (5) state that no written response to the motion is required but is permitted if filed
26 within 14 days of service of the order, unless the court sets a different time, and that
27 any written response must follow the requirements of [Rule 7](#).

28 **(d) Service of the order.** If the court issues an order to attend a hearing, the moving party
29 must have the order, motion, and all supporting affidavits served on the nonmoving
30 party at least 28 days before the hearing. Service must be in a manner provided in Rule 4
31 if the nonmoving party is not represented by counsel in the case. If the nonmoving party
32 is represented by counsel in the case, service must be made on the nonmoving party's
33 counsel of record in a manner provided in [Rule 5](#). For purposes of this rule, a party is
34 represented by counsel if, within the last 120 days, counsel for that party has served or
35 filed any documents in the case and has not withdrawn. The court may shorten the 28
36 day period if:

37 (1) the motion requests an earlier date; and

38 (2) it clearly appears from specific facts shown by affidavit that immediate and
39 irreparable injury, loss, or damage will result to the moving party if the hearing is not
40 held sooner.

41 **(e) Opposition.** A written opposition is not required, but if filed, must be filed within 14
42 days of service of the order, unless the court sets a different time, and must follow the
43 requirements of Rule 7.

44 **(f) Reply.** If the nonmoving party files a written opposition, the moving party may file a
45 reply within 7 days of the filing of the opposition to the motion, unless the court sets a
46 different time. Any reply must follow the requirements of [Rule 7](#).

47 **(g) Hearing.** At the hearing the court may receive evidence, hear argument, and rule
48 upon the motion, or may request additional briefing or hearings. The moving party bears
49 the burden of proof on all claims made in the motion. At the court's discretion, the court
50 may convene a telephone conference before the hearing to preliminarily address any

51 issues related to the motion, including whether the court would like to order a briefing
52 schedule other than as set forth in this rule.

53 **(h) Limitations.** This rule does not apply to [proceedings instituted by the court](#) ~~an order~~
54 ~~that is issued by the court~~ on its own initiative [to enforce an order](#). This rule does not
55 apply in criminal cases or motions filed under [Rule 37](#). Nothing in this rule is intended
56 to limit or alter the inherent power of the court to initiate order to show cause proceedings
57 to assess whether cases should be dismissed for failure to prosecute or to otherwise
58 manage the court's docket, or to limit the authority of the court to hold a party in
59 contempt for failure to appear pursuant to a court order.

60 **(i) Orders to show cause.** The process set forth in this rule replaces and supersedes the
61 prior order to show cause procedure. An order to attend hearing serves as an order to
62 show cause as that term is used in Utah law.

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